

REMARKS

Applicant replies to the Office Action dated December 10, 2008, which this Reply is filed within the one month shortened statutory period for reply. Claims 1-24 and 26 were pending in the application and the Examiner states that the claims are subject to restriction action and/or election requirement. Applicant cancels claims 14-21 without prejudice or disclaimer to the filing of one or more related applications. Claims 23, 24 and 26 were previously withdrawn and claim 25 was previously cancelled. Claims 1-13 and 22 remain pending.

The Examiner asserts a restriction requirement under 35 U.S.C. § 121, requiring restriction of the application as follows:

- Group I: Claims 1-13 and 22, drawn to a system for the fixation of a bone fracture, classified in class 606, subclass 72.
- Group II: Claims 14-16, drawn to a cap device, classified in class 52, subclasses 702 or 708, or class 73, subclass 862.21.
- Group III: Claims 17-21, drawn to a method for facilitating a change in distance between a first and a second surface, classified in class 446, subclasses 436 or 459, or class 414, subclass 12.

Applicant hereby elects Group I, consisting of Claims 1-13 and 22, for prosecution in this application. Applicant has selected Group I in order to expedite prosecution of this application.

Applicant does not acquiesce to the Examiner's foundation for the Restriction Requirement as set forth in the Office Action. Accordingly the foregoing election is made without waiver, estoppel and without prejudice to the filing of one or more related applications directed to the subject matter of the non-elected Groups.

The foregoing amendments conform this application to the Examiner's Restriction Requirement dated December 10, 2008. Applicant respectfully submits that the application is now in condition for examination on the merits. The Examiner is invited to telephone the undersigned at (602) 382-6228 at the Examiner's convenience, if doing so would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due under 37 C.F.R. §§ 1.16 or 1.17 to Deposit Account No. 19-2814. **This statement does NOT authorize charge of the issue fee.**

Respectfully submitted,

Date: January 6, 2009

By: _____

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